

ASSEMBLY BILL

No. 1055

Introduced by Assembly Member Calderon

February 22, 2005

An act to amend Section 1861.05 of the Insurance Code, relating to insurance rates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1055, as introduced, Calderon. Regulation of insurance rates.

Existing law, added by Proposition 103, prohibits certain insurance rates that are excessive, inadequate, unfairly discriminatory, or otherwise in violation of specified provisions of law. Existing law provides that, in considering whether a rate is excessive, inadequate, or unfairly discriminatory, no consideration shall be given to the degree of competition and the commissioner shall consider whether the rate mathematically reflects the insurance company's investment income.

This bill would delete the above prohibition on considering the degree of competition. The bill would require that, in considering investment income, the commissioner take into account the actual rate of return that a particular insurer has earned on its investment.

Because the bill would amend Proposition 103, it would require a 2/3 vote in the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1861.05 of the Insurance Code is
2 amended to read:

1 1861.05. Approval of Insurance Rates. (a) No rate shall be
2 approved or remain in effect which is excessive, inadequate,
3 unfairly discriminatory or otherwise in violation of this chapter.
4 In considering whether a rate is excessive, inadequate or unfairly
5 discriminatory, ~~no consideration shall be given to the degree of~~
6 ~~competition~~ and the commissioner shall consider whether the rate
7 mathematically reflects the insurance company's investment
8 income. *In considering investment income, the commissioner*
9 *shall take into account the actual rate of return that a particular*
10 *insurer has earned on its investment.*

11 (b) Every insurer which desires to change any rate shall file a
12 complete rate application with the commissioner. A complete
13 rate application shall include all data referred to in Sections
14 1857.7, 1857.9, 1857.15, and 1864 and such other information as
15 the commissioner may require. The applicant shall have the
16 burden of proving that the requested rate change is justified and
17 meets the requirements of this article.

18 (c) The commissioner shall notify the public of any
19 application by an insurer for a rate change. The application shall
20 be deemed approved sixty days after public notice unless (1) a
21 consumer or his or her representative requests a hearing within
22 forty-five days of public notice and the commissioner grants the
23 hearing, or determines not to grant the hearing and issues written
24 findings in support of that decision, or (2) the commissioner on
25 his or her own motion determines to hold a hearing, or (3) the
26 proposed rate adjustment exceeds 7% of the then applicable rate
27 for personal lines or 15% for commercial lines, in which case the
28 commissioner must hold a hearing upon a timely request. In any
29 event, a rate change application shall be deemed approved 180
30 days after the rate application is received by the commissioner
31 (A) unless that application has been disapproved by a final order
32 of the commissioner subsequent to a hearing, or (B)
33 extraordinary circumstances exist. For purposes of this section,
34 "received" means the date delivered to the department.

35 (d) For purposes of this section, extraordinary circumstances
36 include the following:

37 (1) Rate change application hearings commenced during the
38 180-day period provided by subdivision (c). If a hearing is
39 commenced during the 180-day period, the rate change
40 application shall be deemed approved upon expiration of the

1 180-day period or 60 days after the close of the record of the
2 hearing, whichever is later, unless disapproved prior to that date.

3 (2) Rate change applications that are not approved or
4 disapproved within the 180-day period provided by subdivision
5 (c) as a result of a judicial proceeding directly involving the
6 application and initiated by the applicant or an intervenor. During
7 the pendency of the judicial proceedings, the 180-day period is
8 tolled, except that in no event shall the commissioner have less
9 than 30 days after conclusion of the judicial proceedings to
10 approve or disapprove the application. Notwithstanding any other
11 provision of law, nothing shall preclude the commissioner from
12 disapproving an application without a hearing if a stay is in effect
13 barring the commissioner from holding a hearing within the
14 180-day period.

15 (3) The hearing has been continued pursuant to Section 11524
16 of the Government Code. The 180-day period provided by
17 subdivision (c) shall be tolled during any period in which a
18 hearing is continued pursuant to Section 11524 of the
19 Government Code. A continuance pursuant to Section 11524 of
20 the Government Code shall be decided on a case by case basis. If
21 the hearing is commenced or continued during the 180-day
22 period, the rate change application shall be deemed approved
23 upon the expiration of the 180-day period or 100 days after the
24 case is submitted, whichever is later, unless disapproved prior to
25 that date.